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June 25, 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

**Re: Federal-State Joint Board on Universal Service,
CC Docket No. 96-45;
Multi-Association Group (MAG) Plan,
CC Docket Nos. 00-256, 98-77, and 98-166;
Review of the Equal Access and Nondiscrimination
Obligations, CC Docket No. 02-39**

Dear Ms. Dortch:

The Cellular Telecommunications & Internet Association ("CTIA") and the Competitive Universal Service Coalition ("CUSC") made a presentation today to Commissioner Kevin J. Martin and his senior legal advisor, Daniel Gonzalez. Participants included Charon Harris of Verizon Wireless, Mark Rubin of Western Wireless Corp., Harold Salters of VoiceStream Wireless Corp., Christopher Guttman-McCabe of CTIA, and the undersigned on behalf of CUSC. The attached summary of the content of the presentation was handed out during the meeting.

Please contact me if you have any questions.

Respectfully submitted,

David L. Sieradzki
Counsel for the Competitive Universal
Service Coalition

Enclosures

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cc: Commissioner Kevin J. Martin
Daniel Gonzalez

COMPETITIVE UNIVERSAL SERVICE COALITION:

The Time for Pro-Competitive Universal Service Reform Is Now

- CUSC consists of wireless and wireline companies that provide, or seek to provide, basic universal service in competition with ILECs. Members include Dobson, U.S. Cellular, VoiceStream, Western Wireless, ALTS, CompTel, and others.
- Local competition is just beginning to get off the ground in rural areas. This progress has been slow and difficult, in part due to sustained regulatory opposition from rural ILECs. For example, in many states it has been very difficult to obtain designation as an ETC.
- ***Competition and Universal Service.*** To enable competition to develop as contemplated by the Telecom Act of 1996, regulators must eliminate artificial regulatory barriers to entry, such as policies that give more universal service support to ILECs than to competitive entrants, or that make it easy for ILECs and difficult for entrants to qualify to receive support.

To eliminate such barriers to entry, all support must be explicit, competitively neutral, and fully portable (i.e., competitive entrants and ILECs get the same amount per line served).

- *Consumer Benefits.* This will benefit residential consumers, particularly in high-cost areas, by enabling them to choose between competitive entrants and incumbents.
- ***ETC Designation.*** The FCC and State Commissions should streamline and expedite the process for designating new entrants as Eligible Telecommunications Carriers (“ETCs”).
 - *Expedite the Process.* The process can and should be accomplished within 6 months, without formal hearings. States should avoid imposing burdensome and unnecessary requirements on competitive entrants.
 - *Competitive and Technological Neutrality.* State commissions should follow applicable FCC precedents, and pursue competitive and technological neutrality in the ETC designation process, in both rural and non-rural ILEC areas.
- ***Federal and State USF Reform.*** The FCC and state commissions should establish greater consistency and interdependence between federal and state support mechanisms, and should implement further reform of both Federal and State high-cost support systems so as to:
 - **Eliminate implicit subsidies, and**
 - **Make all support explicit, portable, and based on forward-looking costs.**
- ***Promote Competition, Broadband, and Economic Growth.*** Pro-competitive universal service reform will spur greater facilities-based competition from all types of competitors – including wireless carriers and CLECs. This should spur technology deployment and economic growth.

CUSC on Pending Issues
Before the Universal Service Joint Board

“Definition of Universal Service” Proceeding

- Adding more services or functionalities to the definition would exclude carriers that cannot provide those services or functionalities from qualifying as ETCs. This could deprive consumers of the opportunity to purchase basic local services from additional carriers.
 - Broadband and high-speed Internet connectivity, while worthy policy goals, should not be added to the definition of universal service. Many carriers – wireless as well as many rural ILECs – will be able to provide such services in the near future, but may not be able to do so now.
- The definition of universal service should avoid locking in existing technologies or rate structures favored by ILECs.
 - For example, requiring ETCs to include a minimum number of “local” minutes in rate plans would require regulators to lock in existing definitions of which services are “local” and which are “long distance.” This would unnecessarily inhibit creativity in responding to consumer demands with new types of combined local/long distance offerings.
- “Equal access” should not be added to the definition.
 - Equal access does not meet the requirements of Section 254(c)(1), because it is not a “service” that consumers have “opted” to purchase through “free market” decisions. Rather, equal access is a legal mandate that courts and regulators imposed on ILECs to prevent them from leveraging their local monopoly power into the long distance market.
 - The application of equal access to the highly competitive wireless industry is completely out of context. This is a classic example where “regulatory parity” is not appropriate. Adding equal access to the definition would effectively exclude cellular and PCS carriers from qualifying as ETCs, given their statutory exclusion from equal access requirements (§ 332(c)(8) of the Act) and costs of modifying existing equipment. Thus, adding equal access to the definition would be profoundly anti-competitive, which is why the Joint Board and the FCC rejected this idea in 1996-97.
 - » Consumers should have the right to decide whether they want to buy local service from an ILEC (including benefits such as equal access) or from an alternative carrier that may offer a different set of benefits (*i.e.*, mobility, calling plans with large “local” calling areas or combinations of local and long distance minutes, and so on).
 - » Lack of equal access requirements enables wireless and other new entrants to provide consumer benefits, including (1) rate plans that integrate local and long distance, and (2) lower long distance rates due to the ability to negotiate with one long distance carrier to obtain the lowest wholesale per minute long distance rate for its customers.

- There is no basis for restricting portability of high-cost support funds. It is immaterial that competitive ETCs in rural ILEC areas receive portable support based on ILECs' embedded costs.
 - Rural ILECs currently recover no equal access costs through the high-cost universal service funds they receive. This means that equal access-related costs are already excluded from portable funds that go to competitive ETCs. Also, most of the rural ILECs completely finished recovering their equal access conversion costs long ago.
 - Competitive ETCs, new entrants with relatively few customers, generally are likely to have significantly higher embedded costs per-line than most ILECs.
 - For over 25 years the FCC has declined to require embedded cost studies from competitive entrants. Portability enables this sensible, deregulatory policy to continue.

10th Circuit Remand Proceeding

- The Tenth Circuit remand order requires the FCC to consider “inducements” to states to develop state universal service programs that complement the FCC’s policies.
 - States should be encouraged or “induced” to designate competitive entrants as ETCs in a competitively and technologically neutral manner, using streamlined procedures comparable to those that were used for designating ILECs.
 - States that want to participate in the federal universal service program should not be allowed to use the ETC designation process to impose non-competitively neutral requirements on wireless or wireline entrants. The ETC designation process must not be used as a way to circumvent Section 332(c) of the Act.
 - States should be encouraged to ensure that any and all intrastate support mechanisms are competitively neutral – *i.e.*, ILECs should not receive explicit or implicit support that is unavailable to competitive entrants.
 - » For example, states that decide to provide support for only a single line per customer should ensure that such support is shared equally among all the ETCs that provide service to a customer, rather than adopting an anti-competitive assumption that the ILEC line is the “primary” line.